

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for October 1, 2003 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #2034

PROPOSAL: Connection of a single-family dwelling to an accessory building for the use of a physically handicapped person.

LOCATION: NW 2nd and Dawes Streets

LAND AREA: 6,550 square feet, more or less.

CONCLUSION: This application meets the requirements of the Zoning Ordinance and Comprehensive Plan.

RECOMMENDATION:	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 22 and 23, Midway, located in the NE 1/4 of 15-10-6, Lincoln, Lancaster County, Nebraska

EXISTING ZONING: R-2 Residential

EXISTING LAND USE: Single-family dwelling

SURROUNDING LAND USE AND ZONING:

North:	Single-family dwellings	R-2 Residential
South:	Single-family dwellings	R-2 Residential
East:	Single-family dwellings	R-2 Residential
West:	Single-family dwellings	R-2 Residential

HISTORY:

Mar 1979 The zoning for this area changed from A-2 Single-Family Dwelling to R-2 Residential as part of the 1979 zoning update.

COMPREHENSIVE PLAN SPECIFICATIONS:

The Land Use Plan designates this area as Urban Residential. (F 25)

Urban Residential: Multi-family and single-family residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. (F 27)

ANALYSIS:

1. This is a request for a special permit to connect a single-family dwelling to an accessory building for use by a physically handicapped person.
2. LMC §27.63.216 provides conditions under which this permit may be granted:

- (a) **Both the existing dwelling and the existing accessory building comply with the yard requirements of the zoning district in which they are located; and**

The R-2 Residential district yard requirements for this lot are 6,000 square feet, 50' average width, and setbacks of 25', 5', and 26' for the front, side, and rear yards, respectively. However, an exception is provided in §27.13.080 allowing this lot to reduce its front yard setback to provide a buildable width of 35'. With this exception, the dwelling meets the yard requirements.

Accessory buildings located not more than 6' from the main structure must comply with the setback requirements of the main structure. This garage is located 6' from the main structure, which is interpreted by the Building and Safety Department to mean the garage is not a part of the main structure for setback purposes and may be located as close as 2' to the side and rear property lines. This garage is located 2' from the side property line, and 8.9' from the rear property line.

Additionally, accessory buildings not a part of the main structure may not cover more than 40% of the required rear yard. In this case, 40% of the required rear yard is 524 square feet, and the amount of garage located in the rear yard is 478 square feet.

- (b) **The enclosed area of the structure attaching the two buildings shall not exceed the greater of 200 square feet or 10% of the floor area of the main floor of the dwelling, and shall not be served by a heating system, cooling system, or plumbing; and**

The proposed enclosure appears to include approximately 122 square feet. The enclosed area does not appear to be served by heating, cooling, or plumbing.

- (c) **The enclosure shall be constructed in accordance with all applicable building and life safety codes; and**

This is a recommended condition of approval.

- (d) **The height and yard requirements of the district in which the single-family dwelling is located shall apply; however, the provisions of sections ...27.13.080...which require accessory buildings to comply with the yard requirements of the main building shall**

not apply. The use of the accessory portion of the structure must remain as an accessory use; and

The first condition of this paragraph does not apply in this case since these provisions of §27.13.080 do not apply to this garage. However, approval of this permit should be conditioned on the use of the garage remaining as an accessory use.

- (e) The single-family dwelling shall be occupied by at least one person who is physically handicapped as defined within Section 27.03.335. The permittee shall certify such occupancy annually to the Department of Building and Safety; and**

Approval of this permit should be conditioned on the permittee certifying such occupancy within a reasonable time, and annually thereafter.

- (f) Any permit issued pursuant to this section shall be conditioned upon the removal of the enclosed access structure within sixty days of the date on which the dwelling is no longer occupied by at least one person who is physically handicapped.**

This is a recommended condition of approval.

3. No City Department has raised an objection to this permit.

The Planning Department recommends approval of this permit based upon the following conditions.

CONDITIONS:

Site Specific:

1. This approval permits the connection of a single-family dwelling to an accessory building for the use of a physically handicapped person.

General:

2. Before receiving building permits:

- 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.

2.1.1 A revised site plan including 5 copies showing the following revisions:

2.1.2 Show the enclosed area does not exceed the greater of 200 square feet or 10% of the floor area of the main floor of the dwelling.

- 2.2 The permittee shall certify to the Director of Building and Safety that the single-family dwelling is occupied by at least one person who is physically handicapped as defined within Section 27.03.335.
- 2.3 The construction plans comply with the approved plans.

STANDARD CONDITIONS:

- 3. The following conditions are applicable to all requests:
 - 3.1 All development and construction shall comply with the approved plans.
 - 3.2 The enclosed area shall not be served by a heating system, cooling system, or plumbing.
 - 3.3 The use of the garage structure shall remain as an accessory use.
 - 3.4 The permittee is to annually certify to the Director of Building and Safety that the single-family dwelling is occupied by at least one person who is physically handicapped as defined within Section 27.03.335.
 - 3.5 The use of the enclosed access structure shall be terminated and the structure removed within sixty (60) days of the date on which the dwelling is no longer occupied by at least one person who is physically handicapped as defined within Lincoln Municipal Code.
 - 3.6 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.7 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.8 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

4. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by

Greg Czaplewski
Planner

Date: September 18, 2003

Applicant: Paul Markey
2440 N.W. 2nd Street
Lincoln, NE 68521
474.9501

Owner: Paul and Rochelle Markey
2440 N.W. 2nd Street
Lincoln, NE 68521
474.9501

Contact: Same as Applicant



Special Permit #2034
NW 2nd & W. Dawes Ave.



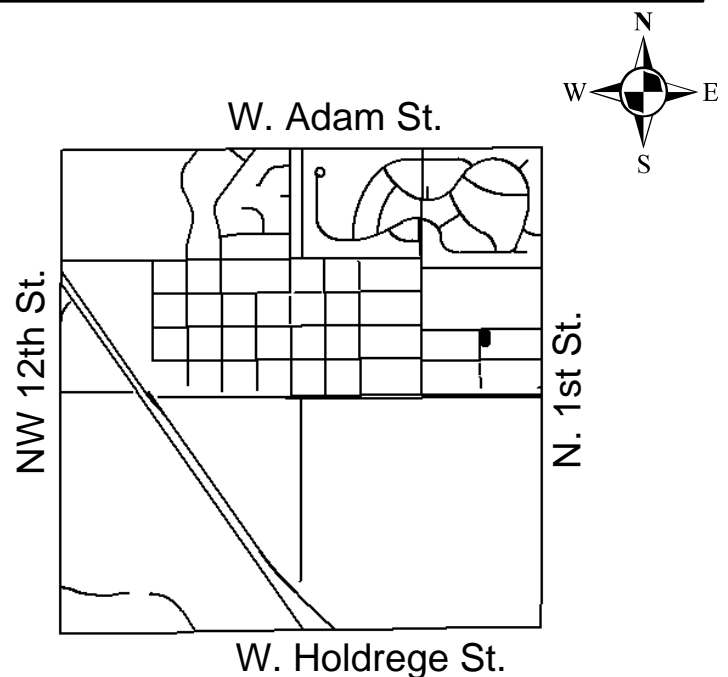
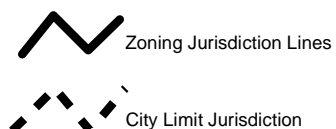


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Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 15 T10N R6E



2045 2nd Street



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NW 2nd St

